

***United States Court of Appeals  
for the Second Circuit***



**APPELLEE'S  
APPENDIX**





# 76-7176

In The  
**United States Court of Appeals**  
For The Second Circuit

ANDY DINKO, individually and on behalf of the members of  
the National Maritime Union of America,  
*Plaintiff-Appellant,*

vs.

SHANNON J. WALL, as President of the National Maritime Union of America and individually, JOSEPH CURRAN, as past President of the National Maritime Union of America and individually, MEL BARISIC, as Secretary-Treasurer of the National Maritime Union of America and individually, PETER BOCKER, JAMES MARTIN and RICK MILLER, as Vice-Presidents of the National Maritime Union of America and individually, ANDREW RICH, as New York Branch Agent of the National Maritime Union of America, ABRAHAM E. FREEDMAN, LEON KARCHMER and MARTIN E. SEGAL, as former Trustees of the National Maritime Union Officers' Pension Plan and individually, and the AMALGAMATED BANK OF NEW YORK, as Successor Trustee of the National Maritime Union Officers' Pension Plan and Trustee for the National Maritime Union Staff Pension Plan,

*Defendants-Appellees.*

## APPENDIX FOR APPELLEES

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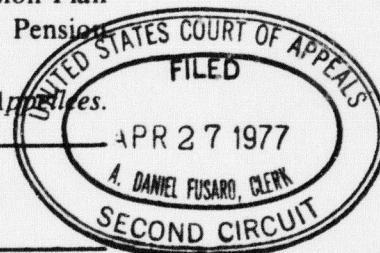
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

AFFIDAVIT OF STANLEY B.  
GRUBER

ANDY DINKO, individually and on behalf of the members of the National Maritime Union of America,

Plaintiff,

-against-

SHANNON J. WALL, et al.,

Defendants.

AFFIDAVIT

75 Civ. 524 (HFW)

[illegible]

STANLEY B. GRUBER, being duly sworn, deposes and says:

1. I am a member of the firm of Abraham E. Freedman, counsel for defendants WALL, CURRAN, BARISIC, BOCKER, MARTIN, MILLER and FREEDMAN in the within matter, and am fully familiar with the proceedings heretofore had herein and the matters hereinafter set forth. This affidavit is submitted in opposition to plaintiff's motion to, inter alia, disqualify the firm of Abraham E. Freedman as counsel for the aforementioned defendants and in support of the motion of these defendants to dismiss this action for lack of jurisdiction over the subject matter on the ground that plaintiff did not possess the requisite "good cause" to commence this action.

As demonstrated by defendants' memorandum of law the test employed in this circuit to determine whether union counsel may represent union officials in a proceeding under Section 501 of the Labor-Management Reporting and Disclosure Act ("LMRDA"), 29 U.S.C. § 501, is whether plaintiff can make a "reasonable showing" of likelihood of success on the merits and establish a potential



conflict of interest between the union and defendant officers. The facts set forth herein demonstrate that plaintiff cannot make such a showing and that, indeed, plaintiff did not have "good cause" to institute this action - his actual purpose being to harass the Union and obtain publicity for himself.

2. The complaint is annexed hereto as Exhibit "1." In his complaint, brought pursuant to Section 501 of the LMRDA, plaintiff alleges that the defendant officers of National Maritime Union of America, AFL-CIO ("NMU") have breached their fiduciary obligations to the Union in a number of ways which will be enumerated herein. Essentially, these alleged violations can be broken down to three categories:

- A. Charges relating to the adoption by the Union of the NMU Staff Pension Plan;
- B. Allegations that the defendant officers have refused to make certain financial and membership data available to plaintiff and other members; and
- C. Allegations that the defendant officers have misappropriated Union funds.

Based on these charges plaintiff seeks the following broad and sweeping relief which would take the administration of the Union out of the hands of its elected officials:

- i. An Order setting aside and declaring void the NMU Staff Pension Plan;
- ii. An Order enjoining defendants from making any payments under the NMU Staff Pension Plan;
- iii. An Order directing an independent examination of the NMU's books, records and accounts necessary to verify Union reports submitted to the Secretary of Labor pursuant to Section 431 of Title 29 of the U.S.C.; an accounting, by Court appointment, of the NMU, its general fund, the NMU Officers' Pension Plan and the NMU Staff Pension Plan, and of all monies paid by the NMU, its general fund and the NMU Officers' Pension Plan to the NMU Staff Pension Plan;



- iv. An Order directing an independent accounting of all monies improperly and wrongfully paid pursuant to the NMU Staff Pension Plan to any and all officers and employees of the Union;
- v. A money judgment against the respective defendants responsible for damages sustained by the NMU and its membership;
- vi. An Order providing for an inspection and copying of the NMU's complete membership lists, including all NMU divisions;
- vii. The establishment of a membership Watch Dog Committee to supervise the expenditure of NMU funds, under Court direction and supervision, in order to protect the membership from a continuing misappropriation of Union funds; and
- viii. For whatever other, further and different relief the Court may deem just in the circumstances together with the costs and disbursements of this action including but not limited to a reasonable attorneys' fee as provided by Section 501(b) of Title 29 of the United States Code and under common law principles.

3. Pursuant to Section 501(b) the plaintiff submitted a verified application to this Court seeking leave to commence this action. Annexed hereto as Exhibits "2" and "3" are the application and affidavit submitted by plaintiff in support of that application for leave to commence the action. The allegations of the application track the allegations of impropriety contained in the complaint. It was considered, ex parte, by Judge Frankel who signed an Order dated January 27, 1975 granting leave to start the action.

Until now, the defendants have not had an opportunity to challenge the propriety of the charges raised by plaintiff in his application and affidavit, and his complaint. Following the commencement of this action defendants served and filed an answer denying plaintiff's allegations and immediately noticed plaintiff's deposition. A copy of the answer is annexed hereto as Exhibit "4." Thereafter, deponent took plaintiff's deposition



over two sessions on April 15 and April 22, 1975. In order to take this deposition it was necessary to obtain an Order from this Court, dated April 3, 1975, compelling plaintiff to appear or face dismissal of his action. The testimony of plaintiff at his deposition was both incredible and enlightening. It established that plaintiff had no basis on which to level the serious charges contained herein and that his credibility is non-existent. We have annexed a copy of the transcript of plaintiff's deposition as Exhibit "5a" and "5b" and will make frequent reference to this transcript hereafter. In dealing with plaintiff's allegations deponent will consider the charges of misappropriation of Union funds, the charges relating to the alleged refusal to make certain financial and membership data available to members and the charges relating to NMU Staff Pension Plan - in that order. Thereafter, deponent will present additional materials demonstrating plaintiff's complete lack of credibility.

4. The Allegations of Misappropriation of Union Funds

a. Paragraph 15 of the complaint sets forth the specific allegations of impropriety which plaintiff has lodged against the defendant officers. Paragraphs 15(g), (i), (k) and (l) relate to the charges of misappropriation of Union funds.

Paragraph 15(g) of the complaint alleges:

"By making, approving or causing to be made and approved improvident, unauthorized and collusive contracts to guarantee pension and severance pay from the NMU General Treasury in the event of a declaration of invalidity of Union Pension Plans to the following non-member, NMU employees:



1. Mr. Ernest Olson, Building Manager
2. Mr. Milton Breit, Controller
3. Mr. Bernie Raskin, Public Relations Director
4. Miss Ann Diamond, Executive Secretary
4. Mr. Eugene Spector, Research Director"

On this charge plaintiff stated at page 13 of his verified application that upon "information and belief:"

"The defendants have executed, without membership knowledge, authorization or ratification, written contracts to guarantee pension and severance pay from the NMU General Treasury in the event of a declaration of invalidity of Union Plans to the following non-member NMU employees... "

At plaintiff's deposition it developed that his "information and belief" was non-existent. He was asked (p.189):\*

"Now, will you tell us on what facts you based your allegations that these contracts exist? In other words, how do you know that they have the contracts?

and the following colloquy occurred (p.189):

A "I have been told by different members that they have the contracts.

Q What members told you?

A I can't give their names due to fear of reprisals.

Q Do you know their names?

A (Pausing.) I have their names home. Not here at the moment."

Mr. Dinko was then asked what he knew about the contents of these contracts and how he knew they were "improvident, unauthorized and collusive" (pp.190-191):

Q "Have you ever seen any of these contracts, Mr. Dinko?

A No, I haven't.

\* Unless otherwise noted, page references are to pages of the transcript of the deposition.



Q These members who told you about these contracts, what did they tell you about them?

A I can't recall.

Q You cannot recall anything that they told you?

A I have never seen them.

Q No, I am saying -- you said you had conversations with members who told you that such contracts existed. Now, my question is did they tell you anything about the contents of those contracts?

A No.

Q No?

A No.

Q So how did you know that these contracts were improvident, unauthorized and collusive as alleged in 15(g) of your complaint?

A Will you rephrase that question again?

MR. GRUBER: Mr. Reporter, please read the question.

(Thereupon, the pending question was read by the reporter.)

A The membership don't know how much money these people are getting.

Q Is that your answer, Mr. Dinko?

A Yes."

Inquiry was made as to whether any attempt was made by Mr. Dinko to inspect these contracts and he replied that he had made such a request to defendant Rich on November 15, 1974 and defendant Wall on November 25, 1975 (p.191). This last testimony was completely at odds with Mr. Dinko's recounting of these alleged conversations with Messrs. Rich and Wall at pages 2 and 3 and 4 of his affidavit and pages 78-82 of his deposition. Thus, his supporting affidavit makes absolutely no reference to such a request for inspection. At his deposition he clearly testified that the only conversation he had with Rich on November 15, 1974



concerned a request for inspection of the proposed Staff Pension Plan(p.79).

Mr. Dinko was clearly unable to support his charge that these contracts are "improvident, unauthorized and collusive." His reply that the membership does not know how much these people are getting does not relate to any of these charges. Indeed, Article 8, Section 11(a) of the NMU Constitution (annexed hereto as Exhibit "6") clearly authorized the National Office of the Union to fix the rates of pay and fringe benefits for Union employees:

"The employment of technical, clerical, administrative and other personnel necessary for the effective administration of the Union's affairs shall be the responsibility of the National Office. The National Office is authorized to establish the compensation for such personnel, including pension, welfare and other fringe benefits. Plans or programs for providing pension, welfare, and other fringe benefits may be combined with similar plans or programs for providing such benefits to officers of the Union."

Since Mr. Dinko has absolutely no evidence of improvidence or collusion and such contracts are clearly authorized by the Union Constitution, he can neither show "good cause" to sue on this point nor establish a reasonable showing of likelihood of success.

b. Paragraph 15(i) of the complaint alleges:

"By appointing or causing to be appointed, men elected to Union office, to different positions in order to pay them two and three times the salaries of the offices to which they were elected by the Union membership."

Reference to this allegation is contained at page 14 of the verified application where plaintiff charged:

"The defendants, without authorization or membership ratification, have taken men elected to one Union office and appointed them to different positions in order to pay them two and three times the salaries of the office to which they were elected. For example, Mr. Elwood Hampton, elected a Patrolman, has been made, by appointment, a Regional Director. Defendant Andrew Rich was elected Port Agent in New York and has been appointed to Regional Director."



Once again, Mr. Dinko's deposition revealed that the source of his information is what he was told by unknown individuals and that he had absolutely no basis to support the charge. With regard to Mr. Rich and Mr. Hampton the following questions and answers occurred (p.193-195):

Q Let's take Mr. Rich first. He was elected to the position of branch agent in the Port of New York; is that correct?

A I believe so.

Q What different position has he been appointed to?

A I believe -- a member mentioned it to me, that he has been appointed to that and he is drawing a higher salary than a port agent.

Q Do you know what other position he holds other than branch agent?

A At the moment, no.

Q Do you know how much extra he gets for this other position?

A The amount of money, I do not know.

Q Your information as to the fact he gets more money comes from other members who told you that?

A Yes.

Q Do you know the names of those members who gave you that information?

A No, I do not, They are afraid of reprisals and they won't give their names.

Q What about Mr. Hampton? Was he elected to any office?

A I believe he was.

Q Do you know what it was?

A I believe it was patrolman.

Q Do you know what other position he was appointed to?

A At this moment, no.

Q Do you know how much extra he gets?

A The amount of monies, no.

Q In your allegation, Paragraph 15(i), you said that they get paid two and three times the salaries of the offices to which they were elected.

A I believe so, but I do not know the exact figure.

Q Who told you that they get paid two and three times the salary --

A Members.

Q And that is the basis for your making that contention?

A Yes.

Q And you do not know the names of those members?

A No, not at the moment."

This testimony demonstrates a complete lack of knowledge or evidence to support the allegations of Paragraph 15(i). Surely, "good cause" cannot be present under such circumstances.

c. Paragraph 15(j) of the complaint alleges:

"By suffering and permitting excessive and improper travel and expense allowances to Union officers and employees without any itemized report or accounting to the membership."

The verified application says only the following about this most serious charge at page 14:

"Officers have been given excessive travel and expense allowances without any itemized report or accounting to the membership."

Mr. Dinko was completely unable to amplify this allegation at his deposition. Once again, his information came from unknown individuals without any form of specific support (pp.195-197):

Q "Paragraph 15(j), on Page 6. It alleges that defendants, I assume, suffered and committed, "... extensive and improper travel and expense allowances to Union officers and employees without any itemized report or accounting to the membership."

Do you have personal knowledge of any excessive and improper travel and expense allowances to union officers and employees?



A Do I have what?

Q Personal knowledge.

A I have been told by members.

Q Do you know the names of those members?

A At the moment, no. They are afraid of reprisals in giving their names.

Q Did they give you their names when they gave you the information?

A No.

Q Is it fair to say that the only information you have regarding travel and expense allowances for union officers and employees is what you were told by these unknown members?

A They are not unknown. They are members in the union. I do not have their names, but they are known.

Q But is the information that you used to make this claim sir, that is Paragraph 15(j), is it based on what you were told by the members?

A At the moment, yes.

Q Is it based on anything else?

A They promised me further information later.

Q Later?

A Right.

Q Did they tell you when that would be?

A No. No.  
Could I go out for a moment?

MR. HOWARD: Let's take a break.  
(Thereupon, a recess was declared  
at 12:15 P.M.)

(At 12:25 the deposition resumed.)

Q We are still with Paragraph 15(j).

Mr. Dinko, can you give us any specific examples of union officers or employees receiving excessive or improper travel and expense allowances?

A Not at the moment.

Q Do you have such information some place else?

A (Pausing) No."

It is incredible, but true, that Mr. Dinko has leveled charges against the defendant officers which amount to outright larceny and yet has absolutely no information to back up his accusations. This pattern of making outrageous charges without foundation runs throughout this action and demonstrates an intent to harass and gain personal notoriety - as opposed to the necessary "good cause" to commence this proceeding.

d. Paragraph 15(k) of the complaint alleges:

"By suffering and permitting unauthorized, excessive and improper salary increases to Union officers and staff without membership knowledge or approval."

On this point the verified application merely states at page 14:

"D) Officers and staff members have been given unauthorized salary increase without membership knowledge or approval."

Mr. Dinko's deposition indicated that this allegation is really a rehash of paragraph 15(i). (pp. 197-98) He contends that certain NMU officers were elected to specific offices and are receiving salaries higher than their elected positions. His information, however, is predictably based on what he has been told by unknown individuals.

At his deposition Mr. Dinko was unable to specify any authority in the NMU constitution prohibiting an officer from holding more than one position with the union (pp. 199, 202).

Thus, Mr. Dinko can neither support the allegations of paragraph 15(k) nor point to any portion of the NMU Constitution which prohibits the conduct of which he complains. Under these circumstances, he demonstrably cannot show "good cause" for paragraph 15(k).

e. Paragraph 15(l) of the complaint alleges:



"(1) By suffering and permitting miscellaneous, out of pocket officer and staff expenses to be reimbursed from Union cash "shlush" funds without approval, authorization, minutes or records of such payments, and without itemization, accounting or reporting procedures."

Page 14 of his verified application says only the following on this point:

"E) Miscellaneous, out of pocket expenses are reimbursed from Union cash "shlush funds" without officer approval or authorization, and without itemization or accounting procedures. There are no minutes of such payments and no records. Nor are the provisos of Section 431 complied with."

The only specific example Mr. Dinko could give at his deposition on this point was that a Mr. Alvin Shapiro received the incredible sum of \$50,000 from the "shlush fund" (p. 204). However, this information, like all his other information, came from what he was told by individuals who would not reveal their names (p.204).

In sum, though Mr. Dinko has raised serious charges of misappropriation of union funds, his sworn testimony clearly demonstrates that at best his information is based on the most unreliable form of hearsay from unknown individuals and, at worst, is a complete fabrication. As will be shown, there is ample evidence that Mr. Dinko will not hesitate to level any charge - no matter how severe - to advance his interests.

5. The Allegations Relating to Refusal to Provide Certain Financial and Membership Data

a. Paragraph 15(d) of the complaint alleges:

"(d) By the Failure and refusal of the defendants to make available to plaintiff and other Union members in good standing an independent financial report or other adequate financial information on the NMU Officers' Pension Plan and the NMU Staff Pension Plan either through publication in the Pilot or at all NMU branch offices."



Mr. Dinko contended at his deposition that his letter of December 17, 1974 addressed to the union requested an "independent financial report or other adequate financial information on the NMU Officers' Pension Plan and the NMU Staff Pension Plan either through publication in the Pilot or at all NMU branch offices" (p.173). A copy of that letter is annexed hereto as "Exhibit '7'". The letter in fact demands the following on this point:

"I demand a complete accounting of all Union expenditures involving the officers Staff Pension Plan and all benefits associated therewith. In addition I further demand a true and accurate accounting of all Union officers and staff, who are participating recipients in this plan; as well as monies expended or allocated for each individual; family benefits and health benefits, etc."

However, nowhere in his letter, complaint or verified application does plaintiff state why such an accounting is necessary. Accountings can be costly, time-consuming and burdensome and should not be required without some showing of wrongdoing. Neither Mr. Dinko's papers nor his testimony even hint at any evidence of wrongdoing.

Surely "good cause" does not exist to sue for an accounting when, as here, there is no showing that an accounting is necessary.

b. Paragraph 15(f) of the complaint alleges:

"(f) By the failure and refusal of the defendants to make available to Union members in good standing information respecting the NMU's true and complete liabilities and disbursements."

Mr. Dinko claimed at his deposition that he requested such information from Mr. Rich on November 15, 1974. (p.186) This testimony conflicted with his affidavit (p.2-4) and other portions of his deposition (pp.78-82). This also holds true for his alleged request of such material from Mr. Wall on November 25, 1974.

However, even assuming that Mr. Dinko ever requested "information respecting the NMU's true and complete liabilities and disbursements" - a very broad assumption - there is no showing by plaintiff that the union is presently presenting an untrue picture. Mr. Dinko conceded at his deposition that periodic financial reports are published in the Pilot regarding NMU general funds (p.187). When questioned about the accuracy of these reports, he testified (pp.187-88)

"Q I want to see if I understand this allegation, Mr. Dinko, there are periodic financial reports published in the Pilot regarding the NMU general funds, are there not?

A Yes.

Q Is it your contention that those reports do not contain accurate information?

A Yes.

Q Do you have any facts on which to support that contention?

A At the moment, no.

Q Pardon me?

A At the moment I don't have them.

Q Before this deposition, before today, did you ever have such facts in your possession?

A I can't recall just to answer that question.

Q You can't recall whether you had such facts in your possession? Is that your answer?

A Yes."

NMU files annual reports with the U.S. Department of Labor which contain detailed information on the Union's receipts and disbursements. These "LM-2" reports are filed pursuant to the LMRDA. Copies of these reports are available for inspection by plaintiff or any other Union member. It is clear that at present plaintiff does not have good cause to challenge the accuracy of these reports and is using this proceeding as a means of conducting



a harassing fishing expedition.

c. Paragraph 15(h) of the complaint alleges:

"(h) By the failure of the defendants to give notice to the Union membership of the potential NMU liabilities referred to in paragraph 15(g) either through publication in the Pilot or by making such contracts available for inspection at all NMU branch offices."

This allegation relates to the employee contracts referred to in paragraph 15(g) of the complaint. As previously noted, Article 8 Section 11 of the NMU constitution gives full authority to the NMU National Office to make arrangements for employing and remunerating NMU employees. There is no requirement of publication of such arrangements and Mr. Dinko has not presented a shred of evidence to show that "improvident, unauthorized and collusive contracts" were entered into. Nor does it appear that Mr. Dinko ever requested an opportunity to inspect such contracts. His letter of December 17, 1974 is silent on this point and his claim at his deposition that he made such requests of Messrs. Rich and Wall on November 15, 1974 and November 25, 1974 are unreliable for reasons previously set forth. Moreover, if such requests had been made prior to December 17, 1974 they would surely have been contained in his letter of that date which was obviously the planned precursor to this litigation.

d. Paragraph 15(m) of the complaint alleges:

"(m) By failing to inform the membership that over 80% of all Union funds are on deposit, at the defendants' will, in the Amalgamated Bank of New York, chosen by defendants as successor Trustee of the NMU Officers' Pension Plan and Trustee for the NMU Staff Pension Plan."

This allegation is also contained at page 15 of the verified application:

"8 The defendants NMU Officers failed to inform the membership of the fact that over 80% of all Union funds are on deposit, at the will of such officers, in the Amalgamated Bank of New York, chosen by such



officers as successor Trustee of the NMU Officers Pension Plan and Trustee for the NMU Staff Pension Plan."

Mr. Dinko admitted at his deposition that he has no personal knowledge regarding this allegation (p.205)

"Q Paragraph 15(m), on page 7. That paragraph alleges: That over 80% of all union funds are on deposit, it is in the Amalgamated Bank of New York.

How did you get that information, Mr. Dinko?

A By members, rank and file members.

Q And you do not know their names, either, I suppose?

A No, they are afraid to give their names due to reprisals when on ships, they would have them hurt or beat up.

Q So you do not know personally whether in fact 80 per cent of NMU funds are on deposit in the Amalgamated Bank of New York, do you?

A At this moment, no."

Even if the allegation were true, there could be no conceivable impropriety in depositing union funds in a respected bank like the Amalgamated - nor has plaintiff suggested to the contrary. Amalgamated's status as Trustee of the NMU Staff Pension Plan certainly does not conflict with its role as depository of union funds.

#### 6. The NMU Staff Pension Plan

The remaining allegations of breach of fiduciary and statutory obligations contained in paragraph 15 of the complaint relate to the NMU Staff Pension Plan. This Plan provides pension benefits for NMU officers, and NMU employees not otherwise covered by the union for pension purposes. On November 25, 1974 the membership of the Union voting at regular membership meetings held at all branches throughout the country, and in Panama and Puerto Rico, voted to approve the Plan as the successor to the NMU



Officers Pension Plan. Copies of the NMU Staff Pension Plan and NMU Officers Pension Plan are annexed hereto as Exhibits "8" and "9" respectively. Copies of the minutes of all NMU regular branch membership meetings of November 25, 1974 are annexed hereto as Exhibits "10 through 36."

Plaintiff makes the following contentions regarding the Plan:

a. That the "spread" given to the proposed Plan in the November Pilot (The union's official organ) was "inaccurate, incomplete, misleading and deceptive" (paragraph 15(a)).

b. That the full texts of the proposed Plan and the NMU Officers Pension Plan were not made available for inspection in either English or Spanish at all NMU branch offices (paragraphs 15(b) and (c));

c. That members were not permitted to express their views on the proposed Plan at the November 25, 1974 meeting held in the Branch of New York (paragraph 15(c));

d. That shore-side members in Panama and Puerto Rico were denied the opportunity to vote on the proposed Plan (paragraph 15(n)).

These allegations will be treated seriatem:

A. The Pilot "Spread"

The "spread" of which plaintiff complains is annexed hereto as Exhibit "37". This article was published pursuant to Article 4 of the NMU Constitution which provides in pertinent part:

"Section 1 -- Principle: All decisions of the National Council, and the National Office between Conventions, which change the established policies, programs, and procedures of the Union must first be approved by the membership before they are made effective.

Section 2 -- Method: Membership approval referred to in Section 1 of this Article shall be obtained in the following manner:



(a) The decision of the National Council and/or the National Office shall be spread in full in the NATIONAL MARITIME UNION PILOT or a special newsletter, provided that action on the decision is not required before the PILOT or special newsletter can be published and distributed to the membership. The decision shall then be read at the regular membership meeting in each Branch office operated by the Union, provided that in the event a regular membership meeting is not scheduled within the time necessary for action upon the decision, the decision shall then be read in full at a special membership meeting called for that purpose. After discussion by the membership, action upon the decision shall be taken by vote of the membership present. The approval of a majority of the total members voting in all Branches shall be required in order to make the decision operative."

At his deposition plaintiff found three faults with the Pilot article (pp.154-55).

1. The names of the Plan beneficiaries were not given;
2. The amounts they would each receive was not given; and
3. The length of time required to receive benefits was not mentioned.

In his verified application plaintiff stated:

1. The Notice did not state the differences between the proposed Plan and the existing Plan;
2. It did not state the formula upon which benefits were to be computed;
3. It did not state how much money was to be allocated and the type of benefits payable;
4. It did not indicate the total amount to be funded from the NMU General Fund;
5. It did not indicate the cost to each member of the benefits to be paid; and
6. It did not indicate that the National Office would determine eligibility and compute and certify benefits.



Pilot "spread" conforms to the NMU constitution's requirements.

Thus the spread:

1. Clearly notes the principal changes in the revised Plan as well as the reason for the changes;
2. Adequately describes the changes in Coverage, Funding, Costs, Benefits and Administration of the Plan;
3. States that \$350,000 will be transferred from the General Fund to fund the revised Plan;
4. State that contributions of up to 26% of base pay of officers and non-officers will be made to the Plan by the Union;
5. States that a benefit formula computed on the basis of earnings in the best 5 of the last 10 years of employment will be utilized instead of all service since 1963, and further states that this change has already been approved by the membership in May 1972;
6. States that the National Office will act as the Pension Committee for the Plan and will be responsible for all basic policy determinations; and
7. Describes the non-officer employees who will be covered by the Plan (those not covered for pension purposes by any other plan) and the reason for their inclusion.

It is submitted that on its face the Pilot notice is sufficient to show that plaintiff cannot reasonably show a likelihood of success or show "good cause" for his attack on this article.

b. The Availability of Texts of the Plans

In alleging that he and other members were denied an opportunity to inspect the full texts of the Staff and Officers



Plans, plaintiff puts his credibility squarely on the line and comes a cropper. In his affidavit in support of his application to start this action, he swears that Evaristo Rodriguez and Emanuel Van Eckelen - both union members - told him they had been denied access to those texts (pp.3 and 4 of affidavit). These allegations were elaborated upon at his deposition (pp.33-45, 124, 132-33). However, annexed hereto as exhibits "38" and "39" are statements from Messrs. Rodriguez and Van Eckelen which completely refute Mr. Dinko's affidavit and sworn testimony. It is astonishing that Mr. Dinko would have the temerity to place his fabrications before this Court in a sworn statement.

Similarly, his testimony regarding his own request to inspect the Plan (pp.78-82) is completely at odds with his affidavit. His affidavit states that he did not see Rich on November 15, 1974 as he testified at his deposition. It makes no mention that he was assaulted and pushed out of Rich's office by 3 "goons" when he made the request. Surely, such facts - if they occurred - would have been of sufficient importance to place in his affidavit.

In addition, plaintiff conceded that he had no idea whether any members were permitted to inspect the texts before the November 25, 1974 vote (pp.166-68) and was unable to give any information on what had happened in branches other than New York (p.168).

Although plaintiff contends that 50% of NMU's membership speak Spanish, this contention is not based on statistical data - but conversations with other members (pp.169-171). More importantly, he has no idea of how many of these Spanish-speaking members cannot read English (p.171). This puts to rest any con-



tention regarding the necessity to publish the texts in Spanish.

c. The November 25, 1974 New York Membership Meeting

Here again plaintiff's version of what transpired at the November 25, 1974 meeting in New York, is undercut by his utter lack of credibility. He alleges at paragraph 15(e) of the complaint:

"(e) By the failure of the defendants to permit any other Union members in good standing an opportunity to express their views on the proposed revision of the NMU Officers' Pension Plan and its Trust Agreement at the regular branch meeting of the Union in New York, called expressly for that purpose, on Monday, November 25, 1974."

Minutes of each membership meeting are transcribed and copies are made available for the membership. The plaintiff obtained a copy of the November 25, 1974 Branch of New York membership meeting minutes from the union hall and gave them to his attorney (p.138). A copy of these minutes were annexed as an Exhibit "III" to plaintiff's verified application and were referred to in the application as support for Mr. Dinko's argument that the defendant officers failed to afford members the right to express their views at the meeting. (See p.12 of application.)

Indeed, plaintiff first appeared to concede the correctness of these minutes at his deposition (p.139). Later, however, he took issue with the minutes which he, himself, had used as an exhibit to a verified application (pp.175-77). Nonetheless, he was unable to say what was not accurate about the minutes (p.177). A copy of these minutes are annexed as Exhibit "40".



Although plaintiff alleges that members were not permitted to express their views at the meeting, he admitted at his deposition that certain opponents of the incumbent union administration were permitted to speak (p.178). Yet he says he heard no one speak against the proposed Plan (p.178-79). However, the minutes offered by plaintiff himself show:

1. Eugene V. Herson, a former candidate for President of the Union, spoke in opposition to the administration for 3 pages of the minutes (p. 13-15 of minutes) and "applause" for his comments were noted.

2. Jonathan Brooks, vehemently spoke against the Plan (p.19-20 of minutes).

3. Raymond Stokes questioned the wisdom of the Plan (p.20 of minutes).

4. Alton Z. Thompson opposed the Plan (p.21 of minutes).

5. William Meakens said the membership had been tricked and asked the Chairman to explain the new Plan (p.21).

At his deposition plaintiff insisted that no vote was taken on the pension plan (pp.83,179). This is directly contrary to the minutes (p. 24 of minutes) and is in contrast to his verified application which clearly states that there was a "vote taken" (p.12 of application). In addition, his affidavit in support of the verified application refers to a November 25th vote (p.4 of affidavit) and when questioned about this, plaintiff conceded "there was hands and shouting out" (p.131).

The minutes do not reflect that Mr. Dinko sought to obtain the floor although Mr. Dinko claims he did on several occasions. He contends that the Chairman mentioned him by name



(p.86) but the minutes do not accord with this testimony. When asked if other members attended the meeting, he testified that several hundred "goons" were present (p.86). A "goon" in plaintiff's parlance is one who harasses, threatens and beats people up. (p.87). Although he noted that some of these "goons" were NMU members, he then insisted that many of them were members of a rival union, the Seafarer's International Union (SIU), who often came to NMU meetings to terrorize NMU seamen (pp.86-90). When pressed on this point, however, he conceded he had no personal knowledge of such SIU activity and had never seen anyone he knew to be an SIU member at an NMU meeting (p.89-90).

Plaintiff agreed that votes cast at membership meetings outside the Branch of New York carry as much weight as a vote cast in New York. (p.181). This is in conformity with Article 4 of the NMU Constitution which refers to membership meetings at all branches. Plaintiff was not at the other branch meetings on November 25, 1974 and has presented no allegations as to what transpired at those meetings. The minutes of those meetings (Exhibits "10" through "36") conclusively show that even if the entire membership attending the New York meeting voted in opposition to the Plan, it still would have passed by a substantial margin.

d. The Panama and Puerto Rico Vote

Included in the attached minutes of November 25, 1974 branch meetings are the minutes of meetings held in the Panama and Puerto Rico branches. (Exhibits "35" and "36"). These minutes reflect that a vote was taken on the proposed Plan. However, plaintiff has alleged at paragraph 15(n) of his complaint:



"(n) By failing to permit shore-side NMU members in the Panama Canal Zone and in Puerto Rico, comprising the Industrial, Technical and Professional Government Employees Division of the NMU, the opportunity to participate in and vote on the proposed NMU Staff Pension Plan."

His sole basis for this allegation is what he was told by members who came to him in New York and said they didn't know of any vote in Puerto Rico and Panama (pp.184-85). As expected, he neither knew the names of these members nor whether they were from Puerto Rico or Panama (p.185).

Mr. Dinko's allegations regarding the adoption of the NMU Staff Pension Plan and his testimony in support thereof, are riddled with inconsistencies, exaggerations and apparent untruths. His credibility, or lack of same, is vitally interwoven with each allegation concerning the adoption of the Plan, save the accuracy and validity of the Pilot article on the proposed Plan. Deponent submits that the article stands on its own as a proper notice to the membership under Article 4 of the NMU constitution and that the remainder of plaintiff's charges are totally unsubstantiated and lacking of "good cause." We now turn to other testimony which completely destroys plaintiff's credibility.

7. After Judge Frankel signed the Order on January 27, 1975, permitting the filing of this lawsuit, the plaintiff called a press conference for February 3, 1975 at the New York Sheraton Hotel (pp.212-15). Annexed hereto as Exhibit "41" is the release sent out announcing the conference (the document was marked as Exhibit 8-A at the deposition). The plaintiff testified that union members whose names he did not know, prepared and sent out Exhibit "41" and notified the reporters - all without his asking (pp.212-15). He made the same claim about the press release dated February 3, 1975, annexed as Exhibit "42" and identified as Exhibit 8 at his deposition. However, he conceded his wife made



arrangements for the room at the hotel (p.212).

Both documents contain Mr. Dinko's home phone number. They were obviously prepared by Mr. Dinko and his attorneys since they make specific reference to the material contained in his application papers. The same irresponsible and unsupported charges contained in those papers and the complaint are set forth in these notices to the Press.

In addition, these notices to the Press identify Mr. Dinko as the Chairman of the "National Maritime Union Rank and File Committee". The "chairman", however, is sadly lacking in knowledge about his own committee. At first he testified that the Committee was formed over a year ago (p.206). However, he had no idea how many members belonged to the Committee and conceded no membership records were kept (pp.206-7). Shortly thereafter, he testified that the committee was "being formed" and "was not set up yet". "Members are just helping me as we go along" (p.209).

Plaintiff did manage to get newspaper articles published in at least two newspapers - the Journal of Commerce on February 4, 1975 and The Baltimore Sun on February 10, 1975. These articles were made into leaflets and were distributed by plaintiff to NMU members (pp.208,216). These leaflets are attached as Exhibits "43" and "44" and were identified as Exhibits 7 and 9 in the deposition.

The Journal of Commerce article indicated that at the press conference plaintiff stated his Rank and File Committee numbered more than a thousand. He backed off this statement at his



deposition, however (pp.206-7). Plaintiff also charged at the press conference that \$125,000 had been paid a retiring NMU Southern port agent. At his deposition he couldn't recall whether he had made that statement and the name of the agent in question (p.210). The article repeated Mr. Dinko's charge that a retiring security chief had received \$200,000. However, at his deposition he couldn't recall whether he made that charge at the press conference and stated that members have told him such a thing (p.210-11). As usual, he did not know the names of those members (p.211).

The leaflet containing the Baltimore Sun article states that the SIU, NMU's rival union, has obtained a 10 year contract for all jobs aboard the S.S. "United States", the largest U.S. flag passenger vessel and an NMU ship. The leaflet asks the rhetorical question: "We would like to know how much money the Shannon Wall - Mel Barisic gang received for the underhanded deal?" When asked at his deposition whether it was true that SIU had obtained such a contract, Mr. Dinko responded (p.217):

"I can't disprove it and I can't prove it."

This leads to perhaps the most remarkable thing of all - Mr. Dinko's insistence that he did not prepare these leaflets. He testified that they were prepared by members whose names he did not know - some of whom were members of his own committee! (p.209-216). Yet the leaflets are stamped at the bottom with his name, address and telephone number. He did agree, however, that he had distributed the leaflets after reading them (pp.210,216).

The press conference, the leaflets and Mr. Dinko's testimony regarding both, clearly establish his complete lack of reliability and his motive for using this lawsuit as a means of drawing attention to himself and furthering his grandiose political ambitions.



As will be shown next, Mr. Dinko will not hesitate to make the wildest and most scurrilous form of accusation in order to attain personal notoriety. The truth of his charges does not concern him in the slightest.

8. Four other leaflets were identified at Mr. Dinko's deposition as Exhibits 1, 2, 10 and 12. They are attached here as Exhibits "45" through "48".

a. Exhibit "45" is entitled an "Open Letter to the NMU Membership", contains Mr. Dinko's name, address and telephone number and is signed by him. It was distributed to the membership by Mr. Dinko (p.53,95-6) after he read a copy and signed it (p.97, 98). Mr. Dinko maintains, however, that he did not write Exhibit "45" and does not know the names of the individuals who did prepare that leaflet. (p.96). As with each of the annexed leaflets that he has distributed, Mr. Dinko claims that Exhibit "45" was prepared by unknown individuals and delivered to him in large quantities (pp. 96-98, 117, 218, 220). This, despite the fact that these leaflets speak in the first person and describe Mr. Dinko's personal activities.

Although Mr. Dinko is obviously trying to avoid responsibility for the leaflets by claiming he doesn't know who prepared them, his admission that he read them and then distributed them to the membership is sufficient in itself to conclusively demonstrate his instability.

Exhibit "45" contains accusations against NMU officers and employees of criminal, unethical and immoral conduct. Mr. Dinko could support none of these charges. On each of the following charges he admitted he had no personal knowledge, that his information was based on hearsay from unknown individuals and



that he could not prove the charge:

1. That Milton Breit, the NMU Controller has a \$1,000 per month pad in Brooklyn which he pays for with union money (pp.103-4);

2. That Mr. Breit has prostitutes in the union building after hours and pays for them with union money (pp.104-5);

3. That President Shannon Wall purchased a million dollar yacht (pp.105-6);

4. That Vice-President James Martin holds half of "Panama's prime properties" (p.106);

5. That NMU officials "are cleaning out the NMU treasury" (p.106);

6. That the Premier of Japan asked the U.S government to throw NMU Out of Japan (p.107);

7. That Vice-President Pete Bocker took a \$100,000 pay-off from a factory owner to leave the factory without a union (p.107-108);

8. That Secretary-Treasurer Mel BARisic is an ex-nazi sympathizer and collaborator (p.108-9).

The leaflet claims "If anyone does not believe I have the facts, I will be glad to play the recorded tapes of the conversations at the next membership meeting". Mr. Dinko admitted, however, that he had no such tapes and doesn't know whether they exist (p.110).

b. Exhibit "46" is primarily a cartoon depicting various NMU officials as animals. It also contains written accusations. Mr. Dinko has distributed the document and posted it on his mobile camper (p.117).



Exhibit "46" depicts Mr. Bocker holding a sign which states "Before I got my citizenship papers I didn't tell U.S. immigration that I was a member of the party". Mr. Dinko has no personal knowledge whether Mr. Bocker was a member of the communist party and conceded he could not prove the charge (pp.119-20).

Mr. Barisic is shown as a pig with swastikas on each lapel. Plaintiff has no personal knowledge of any connection between Barisic and the Nazis and "can't prove that or disprove it" (p.120).

Another union official, Al Zeidel, is portrayed sitting on a chair with a Star of David on his chair. Mr. Zeidel is Jewish and Mr. Dinko knows it (p.121). He claims, however, that he does not recognize the Star of David symbol (p.121-22).

Milton Breit is described as a "professional pimp". On this point Mr. Dinko testified, "It is hearsay. I can't disprove it or prove it." (p.123).

c. Exhibit "47" states that President Wall and Secretary Treasurer Barisic hate Jews and Blacks. Again Mr. Dinko testified "It is hearsay from members; I can't prove it or disprove it" (p.218). Nor did he ever make any effort to see whether the charge was true - "I didn't know I had to", testified Mr. Dinko (p.219).

d. Exhibit "48" is entitled "Special Bulletin" and is signed by Mr. Dinko. It was also distributed by Mr. Dinko and contains a large number of serious accusations and villifications. The charges regarding Milton Breit and prostitutes are repeated. There is a charge that Shannon Wall has lost \$30,000,000 of NMU pension money due to poor investments but Mr. Dinko can neither prove nor disprove the charge since it is "hearsay" from unknown members (p.222).



Here then is a marked pattern of Mr. Dinko distributing literature which purports to attribute inside information to him about all sorts of heinous activities being perpetrated by NMU officials and employees. When pressed, however, he is unable to substantiate any of his charges and even has the gall to try to deny responsibility for preparing the literature. It does not seem possible that such a man can be believed on any point where his credibility is called into question.

9. Mr. Dinko's affidavit in support of his motion to disqualify deponent's law firm correctly states that Mr. Freedman was a trustee of the NMU Officers' Pension Plan and resigned in December, 1974. Mr. Freedman is not a Trustee of the NMU Staff Pension Plan which is here under attack and has no personal interest in the outcome of this litigation. He is only sued in this action in his capacity as a stakeholder, along with Messrs. Segal and Karchmer. Mr. Segal has moved to dismiss the action against him since he is no longer a Trustee and can no longer be a "stakeholder". Mr. Freedman intends to make a similar motion.

10. At his deposition plaintiff testified that he has not been an active seaman since 1969 and, indeed, that he has not been employed since that date. He has found time to run for President of NMU on two occasions since 1969, the most recent occasion being 1973. He is not receiving welfare benefits from any source and claims to have been living on his "personal savings" since 1969.

11. Article 21, Section 4(a) of the NMU Constitution provides that union officers who successfully defend themselves in litigation arising out of their activities as officers are entitled to be reimbursed by the union for counsel fees and expenses. This is in accord with the law of this Circuit. Thus,

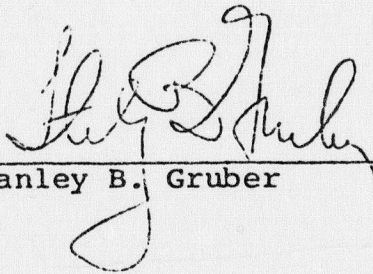


if private counsel is required for defendant officers, the union will bear substantial costs if defendants are successful. The Union should not be put to this tremendous expense in a case as outrageous as the instant action.

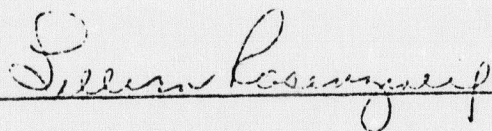
Deponent regrets the extreme length of this affidavit and the great bulk of exhibits attached hereto. However, it is essential to bring to the Court's attention that this case has absolutely no merit and should not have been permitted in the first instance. It would be unfortunate if the defendants and eventually the union are forced to pay for the costs of defending this action when the plaintiff's likelihood of success seems so remote.

There is more material contained in plaintiff's deposition which establishes his unreliable character and disdain for the truth. Deponent respectfully requests the Court to review the deposition in its entirety so that the full flavor of plaintiff's lack of credibility can be experienced.

WHEREFORE, deponent respectfully requests that plaintiff's motion to disqualify be denied and that the motion to dismiss be granted.

  
Stanley B. Gruber

Sworn to before me this  
28<sup>th</sup> day of May, 1975



LILLIAN POGENZWEIG, NOTARY PUBLIC  
STATE OF NEW YORK No. 213261653  
QUALIFIED IN KINGS COUNTY  
CERT. FILED IN NEW YORK CITY  
COMMISSION EXPIRES MARCH 30, 1977



## NOTICE TO ALL MEMBERS:

# Proposal to be voted at regular Branch meetings, Monday, November 25, 1974

At the regular November meetings in all branches, a proposed revision of the NMU Officers Pension Plan and its Trust Agreement will be submitted to the membership. The revised plan will be called the NMU Staff Pension Plan and it will cover officers of the Union and those employees of the Union whose employment is not otherwise covered by NMU for pension purposes.

Below is a description of principal changes contained in the revised plan. Full text of the proposed NMU Staff Pension Plan as well as the present NMU Officers Pension Plan, which it will replace, and the Declaration of Trust will be available for inspection in all NMU branch offices during regular Union office hours through the month of November.

The November meetings will be held Monday, Nov. 25, 1974 in all branches.

### Background Information

The NMU Officers Pension Plan has been in effect since 1953. Prior to a 1969 court decision, it covered the officials and certain employees of NMU who were not covered under collective bargaining agreements between NMU and unions representing our employees.

In 1969, a Federal court judge ruled that non-officer employees of the Union could not be covered for pension under the NMU Officers Plan because of the wording of the NMU Constitution. The court did not rule that these non-officer employees could not receive the same pension protection provided by the Officers Plan; only that the Constitution at that time did not permit this coverage to be provided under the Officers Plan.

As a result of this ruling, funds which had been paid into the Officers Pension Plan to provide pensions for non-officer employees were returned to the Union's General Fund. An NMU Non-officer Staff Pension Plan subsequently was

established to provide pension coverage for those non-officer employees who had been in the NMU Officers Plan and were continuing in the Union's employ. However, no trust fund to provide these benefits was established.

In 1972, the NMU Constitution was amended (Article 8, Sec. 11a) to make clear that the Union could provide pensions for non-officer employees and could combine the plans for providing pension and welfare benefits to employees with similar plans for providing such benefits to officers.

The proposed NMU Staff Pension Plan, in accordance with the 1972 amendment to the Constitution, will combine into a single plan, the pension coverage which now is provided separately for NMU officers and non-officers. It will provide the funding now required by law and promote administrative efficiency.

The Amalgamated Bank of New York will be substituted as the trustee for the plan in place of the three individual trustees now serving the NMU Officers Pension Plan.

Following is a summary of principal differences between the proposed NMU Staff Pension Plan and the present Officers Pension Plan (full text of both plans available in branch offices):

**COVERAGE:** A single integrated plan will be established covering elected NMU officials and those non-officer employees whose employment with NMU is not covered for pension purposes by collective bargaining agreements between NMU and any union representing the Union's employees.

**FUNDING:** The funds currently in the NMU Officers Pension Trust will be transferred to the new NMU Staff Pension Plan. The actuaries then will determine how much will be required to

bring the trust to the level adequate to fund accumulated service credits of the officer and non-officer employees who will be covered. The additional funds required will come from the General Fund. As a result of the 1969 court ruling, approximately \$520,000, contributed over the years to provide pensions for non-officer employees, was taken out of the Officers Pension Plan and transferred to the NMU General Fund. Of that amount, it is estimated that about \$350,000 will now be used to fund the NMU Staff Employees Pension Plan.

**COSTS:** The proposed plan provides for the rate of contributions to be determined by the Plan actuaries but not to exceed the 26% of base pay now in effect under the NMU Officers Plan. The costs will be reviewed at least once every three years and the rate will be adjusted on the basis of the actuarial experience. In no case can the rate be higher than the current 26%. Contributions will be made for officers and non-officers covered under the plan.

**BENEFITS:** The proposed plan will have a revised benefit formula to be computed on the basis of earnings in the best five of the last ten years of employment instead of all service since 1963. This revision was approved by the membership in May, 1972. This revision will not increase any pensions already awarded. It applies only to officers and covered employees in the Union's employ now or in the future.

**ADMINISTRATION:** Under the proposed plan, the NMU National Office will function as a Pension Committee and be responsible for basic policy determinations subject to membership approval where required by the NMU Constitution. The Amalgamated Bank of N.Y. will be trustee and serve as investment advisor. The Plan will be registered with all applicable regulatory agencies of the New York and Federal governments.



**Aviso a todos los miembros:**

## Proposición que será votada en reunión regular de los ramales, el 25 de Noviembre, 1974

En la reunión regular de Noviembre en todos los ramales se presentará a la consideración de los afiliados una proposición de revisión del Plan de Pensión de Oficiales de la NMU y su Acuerdo de Administración. El plan revisado será denominado el Plan de Pensión del Personal de la NMU y cubrirá a los oficiales de la Unión y a aquellos empleados de la Unión cuyo empleo no está cubierto en otra forma por la NMU a los efectos de pensión.

Más abajo se hace una descripción de los cambios principales contenidos en el plan revisado. El texto completo del propuesto Plan de Pensión del Personal de la NMU así como del actual Plan de Pensión de Oficiales de la NMU que habrá de reemplazar, y la Declaración de Administración, estarán disponibles para inspección en todas las oficinas de los ramales de la NMU durante las reuniones regulares de oficina de la Unión durante el mes de Noviembre.

La reunión de Noviembre se celebrará el Lunes, 25 de Noviembre de 1974 en todos los ramales.

### Antecedentes

El Plan de Pensión de Oficiales de la NMU ha estado en vigor desde 1953. Antes de una decisión judicial de 1969, cubría a los oficiales y aquellos empleados que no estaban cubiertos bajo acuerdos de negociación colectiva entre la NMU y las uniones que representan a nuestros empleados.

En 1969 un juez de una corte federal dictaminó que los empleados que no eran oficiales de la Unión no podían estar cubiertos para pensión bajo el Plan de Oficiales de la NMU debido al vocabulario de la Constitución de la NMU. La corte no dictaminó que esos empleados, no-oficiales—no podían recibir la misma protección de pensión provista por el Plan de Oficiales; sólo que la Constitución no especificaba que esa protección podía ser suministrada bajo el Plan de Oficiales.

Como resultado de esa decisión, los fondos que habían sido pagados al Plan de Pensión de Oficiales para proveer pensiones a los empleados no-

oficiales fueron devueltos al Fondo General de la Unión. Subsecuentemente se estableció un Plan de Pensión para el personal de la NMU sin categoría de oficial, para ofrecer protección de pensión a aquellos empleados no-oficiales que habían estado en el Plan de Oficiales de la NMU y que seguían empleados por la Unión. Sin embargo, no se estableció un fondo administrativo para proveer esos beneficios.

En 1972, la Constitución de la NMU fue enmendada (Artículo 8, Sec. 11a) para aclarar que la Unión podría proveer pensiones para los empleados no-oficiales y podría combinar los planes para proveer pensiones y beneficios de asistencia a los empleados con los planes similares para proveer tales beneficios a los oficiales.

El propuesto Plan de Pensión del Personal de la NMU, de acuerdo con la enmienda de la Constitución de 1972, combinará en un sólo plan la cobertura de pensión que ahora se ofrece separadamente para los oficiales y los no-oficiales de la NMU. Proveerá los fondos requeridos ahora por la ley y promoverá la eficiencia administrativa.

El Amalgamated Bank of New York será sustituido por los tres administradores individuales que ahora sirven al Plan de Pensión de Oficiales de la NMU.

A continuación aparece un resumen de las principales diferencias entre el propuesto Plan de Pensión del Personal de la NMU y el actual Plan de Pensión de Oficiales (los textos completos de ambos planes están disponibles en las oficinas de los ramales):

**COBERTURA:** Será establecida un plan sencillo integrado cubriendo a los oficiales electos de la NMU y a aquellos empleados que no son oficiales cuyo empleo con la NMU no está cubierto a los efectos de pensiones por acuerdos de negociación colectivos con la Local 153 de la Unión Internacional de Empleados de Oficina u otras uniones.

**FONDOS:** Los fondos que hay actualmente en la Administración de Pensión de Oficiales de la

NMU serán transferidos al nuevo Plan de Pensión del Personal de la NMU. Los actuarios entonces determinarán cuánto se requerirá para llevar a la administración al nivel adecuado para costear los créditos de servicio acumulado de los oficiales y empleados no-oficiales que serán cubiertos. Los fondos adicionales requeridos procederán del Fondo General. Como resultado de la decisión judicial de 1969, aproximadamente \$520,000, contribuido a través de los años para proveer pensiones para los empleados no-oficiales, fueron extraídos del Plan de Pensión de Oficiales y transferidos al Fondo General de la NMU. De esa cantidad, se estima que alrededor de \$250,000 serán empleados ahora para el fondo del Plan de Pensión del Personal de la NMU.

**COSTOS:** El plan propuesto provee que el índice de contribuciones sea determinado por los actuarios del Plan, pero sin exceder el 26% del pago básico en vigor actualmente bajo el Plan de Oficiales de la NMU. Los datos serán revisados por lo menos una vez cada tres años y el índice será ajustado a base de la experiencia de los actuarios. En ningún caso el índice podrá ser más alto que el actual 26%. Las contribuciones serán hechas para oficiales y no-oficiales cubiertos bajo el plan.

**BENEFICIOS:** El plan propuesto tendrá una fórmula revisada de beneficios que se calculará a base de los ingresos en los mejores cinco de los últimos diez años de empleo, en lugar de todo el servicio desde 1963. Esta revisión fue aprobada por los afiliados en Mayo de 1972.

**ADMINISTRACION:** Bajo el plan propuesto, la Oficina Nacional de la NMU funcionará como Comité de Pensión y será responsable de las determinaciones de política básica sujetas a la aprobación de los afiliados cuando fuera requerido por la Constitución de la NMU. El Amalgamated Bank of N.Y. será administrador y servirá como asesor de inversiones. El Plan será registrado ante todas las agencias regulatorias aplicables del Estado de Nueva York y el gobierno federal.



STATEMENT OF EVARISTO RODRIGUEZ

Statement of Evaristo Rodriguez  
189 South 9th Street, New York, N.Y.  
I give the following statement of my  
free will and without any pressure of  
any kind.

Evaristo Rodriguez  
I have been a member of the F.M.U.  
since 1953. My wife's name was Josephine  
Rodriguez and she died on March 13, 1973.  
About a month after she died, I went  
to the P & W plan office and inquired as to  
how much sea time I had. The ladies  
took my information and told me that  
a letter would be sent to me informing  
me of how much sea time I had. I  
received this letter about three weeks  
later. This letter indicated that I had  
a little over 17 years sea time. About  
six or seven months after my wife had  
died, I remember talking to Andy Ninko.  
He was outside of the F.M.U. hall. He had  
his wagon on 16th Street and was  
passing out literature. I remember dis-  
cussing the procedure involved in the  
Lamar-Ritter Trust Plan. I never went  
to Andy Ninko's home for any reason. I  
do not know where he lives.

I never went into the New York  
F.M.U. hall and asked to see the pro-  
posed Staff Pension Plan in Spanish.  
I can read and understand the English



language. I did not ask anyone to see the proposed Staff Officers Plan in its English text.

I never told Andy Blinks that I had ever asked to see the plan in either the English or Spanish or any other language. Nor did I ever tell Andy Blinks that I was refused to see the plan.

I have read the foregoing statement and it is true and correct.

Feb 18, 1975 *Emilio Rodriguez*



STATEMENT OF EMANUEL VAN ECKELEN

My name is Emanuel Van Eckelen and I reside at 107-05 47th Avenue, Harding Expressway, Queens, New York. The following statement is given of my own free will and without any pressure of any kind.

I am a member of the National Maritime Union and have been a member since 1963. I ran for the office of Patrolman in the last election of NMU Officers which was conducted in 1973.

I did not go to the NMU branch office in Philadelphia, Pa., during the month of November, 1974 for the purpose of inspecting the proposed NMU Staff Pension Plan. In fact, I never went to Philadelphia for that purpose nor have I ever asked any official of the NMU for an opportunity to inspect the full text of such Pension Plan.

In 1973 during the election campaign for NMU Officers I did go to the NMU branch office in Philadelphia for the purpose of inspecting membership lists for use in my campaign. I spoke to the Branch Agent and asked him if I could look at the list. He did not allow me to do so. About one week later I mentioned this to a group of people, including Andy Dinko, while we were outside the NMU headquarters at 36 Seventh Avenue, New York, New York. There were several other candidates for office present but I don't specifically recall which ones.

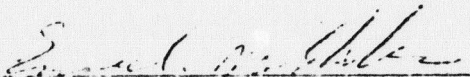
Since 1973 I have spoken to Mr. Dinko several times but at no time have I ever discussed with him anything about a trip to Philadelphia for the purpose of inspecting the NMU Staff Pension Plan. I could not have discussed this with him since I never went to Philadelphia for that purpose. In fact, I was an in-patient in St. John's Hospital in Brooklyn from October 22, 1974 to November 14, 1974. I was hospitalized because of a gunshot wound in my left shoulder. When I was discharged from the hospital, I was not fit for duty as an out-



patient for another three weeks. I certainly would not have  
to travel to Philadelphia during that time.

Mr. Dinko never advised me that he was going to use my name  
in the papers he submitted to the Court in connection with his law  
suit. If he had asked me, I would have told him that his information  
about my going to Philadelphia to inspect the NMU Staff Pension Plan  
was incorrect

I have read the foregoing statement and it is true and correct.

  
EMANUEL VAN ECKELEN

MINUTES, MEMBERSHIP MEETING  
NEW YORK: 11/25/74

BRANCH OF NEW YORK

REGULAR MEMBERSHIP MEETING

MONDAY, NOVEMBER 25, 1974

The meeting was called to order at 10:00 a.m. by Andrew Rich, New York Branch Agent, in the name of the National Maritime Union.

PROPOSED AGENDA:

1. Nominations and Election of Meeting Chairman.
2. Nomination and Election of Recording Secretary.
3. Reading of Previous Meeting Minutes.
4. Agent's Report.
5. National Office Report (President, Shannon Wall.)
6. New Business
  - a) Proposal NMU Staff Pension Plan.
7. Good and Welfare.
8. Adjournment.

M/S/C To accept the Agenda as read.

M/S/C To go to the first item on the Agenda.

NOMINATION AND ELECTION OF MEETING CHAIRMAN:

ANDREW RICH, BK.#44176.....Accept  
Andy Dinko, BK.#51380.....Accept  
Al Zeidel.....Decline

M/S/C To close nominations.

VOTE:

<u>ANDREW RICH</u>	<u>ANDY DINKO</u>
157	25

M/S/C To accept Chairman, Andrew Rich by acclamation.

M/S/C To go to the next order of business.

NOMINATION AND ELECTION OF RECORDING SECRETARY:

AL ZEIDEL, BK.#59221.....Accept  
St. Clair Parris.....Decline  
Vic Summers.....Decline  
Andy Dinko, BK.#51380.....Accept

M/S/C To close nominations.

VOTE:

<u>AL ZEIDEL</u>	<u>ANDY DINKO</u>
170	26

M/S/C To accept Recording Secretary, Al Zeidel by acclamation.

M/S/C To go to the next order of business.

CHAIRMAN: "The next order of business is the reading of previous meeting minutes."

M/S/C To post the reading of previous meeting minutes.

M/S/C To go to the next order of business.

CHAIRMAN: "The next item on the Agenda is the Agent's Report, Al, will you please take the gavel."

This is the Shipping report dated November 22, 1974 covering the period October 25th through November 21, 1974, submitted by John DellaVolpe, Chief Dispatcher.



everything within the President's Report and there were things discussed that weren't even in his report. The Chair has the discretion to close discussion when he feels that full expression of the question has been had by the membership, the assembly.

Alright, under New Business..."

FLOOR: "Noise."

CHAIRMAN: "Please, Brother, you are out of order so sit down. Brothers, may I have your attention, as noted in the Agenda the proposal to be voted on at all regular membership meetings Monday, November 25th is the NMU Staff Pension Plan. It has been spread in the Pilot. The Pilot has been available to everybody. I assume it has been read. Shall the record show that it has been spread in the Pilot and that the membership is fully aware of it without me reading it into the record."

FLOOR: "So be it."

CHAIRMAN: "Is it moved to adopt the Plan?"

FLOOR: "So moved."

CHAIRMAN: "Is there a second?"

FLOOR: "Seconded."

CHAIRMAN: "Wait a minute. That is not accurate, I am not soliciting support of the motion. This was spread in the Pilot. It is the Chairman's business to bring it to the floor. It has been moved and seconded, now there is discussion."

MAN GETS UP FROM HIS SEAT.

CHAIRMAN: "Go back to your chair. There is going to be discussion."

CHAIRMAN RECOGNIZED A SPEAKER.

AUBREY HENDY, BK.#71053: "Brothers, and Sister, Mr. Chairman, I rise to settle this discussion here this morning. I make a motion that we accept the proposal Staff Pension Plan as spread."

FLOOR: "Second it."

CHAIRMAN: "No, no you can't walk up to the microphone. Sit down. Alright, hold it. I want to bring to everyone's attention that this microphone is unattended. We don't want to stifle the voice of the membership but a man must get the floor in accordance with Robert's Rules. I did not try to run this proposal through on you. There seemed to have been some skepticism as to whether the motion to adopt the plan was properly presented. This brother has reaffirmed its adoption."

CHAIRMAN ADDRESSED THIS TO MAN ON THE FLOOR:

CHAIRMAN: "Wait a minute, see you have your hand up but there are other people that want to speak also. I see your books."

JONATHAN BROOKS, BK.#40949: "I would like to move to reject the proposed Officers' Pension Plan."

CHAIRMAN: "Brother, there is a question before the membership already. Another motion is just out of order."

JONATHAN BROOKS, BK.#40949: "It is not out of order to oppose a motion put on the floor and call for its rejection. Now the reason for calling for a rejection is that we have been told over and over again that this Union is in hard straits. The seamen must tighten their belts. We had to sell our Union Hall. We had to get rid of our no age pension and establish a pension at age 55. And, at the same time there is an effort to establish a pension plan for the officers. Now I believe that one of the Brothers has spoken to the point. We are not opposed to paying pensions to officers and staff in this Union but the size of the pension should definitely be tied to the size of the pension of working seamen."



In fact we believe that there should be a one pot pension plan which means that no officer in this Union receives a larger pension than the highest paid working seaman.

If this union can afford to set up an officers' pension plan therefore presumably we are not in such bad financial straights and I believe this Union is also empowered to establish or re-establish our strike fund which was liquidated to sell the building because we had no money in the pension fund."

FLOOR: "Applause." POINT OF ORDER.

CHAIRMAN: "Let me explain this, you can speak if you wish but a point of order once discussion is started is not well taken."

JOSEPH MARYKA, BK.#45167: "Lady's and Gentlemen, I want to tell you on thing we elected these members either they are for us or they are not. Either one of the two things, what is it going to be? Are they going to fight for us or not? We have to get ships and we have to get ships out. I am finished."

CHAIRMAN: "Alright."

RAYMOND STOKES, BK.#59938: "The President said we are going to get a pension that is 60 percent of our salary. The point is, where is this money coming from to get him a pension when they can't give a seaman a pension? Where are they going to get this money?"

CHAIRMAN: "Alright, you Brother."

JOHN T. HUNT, BK.#88798: "My book is fully paid up. I rise in favor of the motion to accept this proposal."

MAN MAKES COMMENT FROM THE FLOOR:

JOHN T. HUNT, BK.#88798: "What is bothering you, clean underwear? I am sure that the members realize that this proposal for Officers', Staff Plan is just to give the staff equal to the elected officials. I think it is good. It is not a complicated situation. Let's just vote in favor."

FLOOR: "Noise."

CHAIRMAN: "Jumping up and down is not going to get you the floor."

THE CHAIRMAN RECOGNIZED ANOTHER SPEAKER.

PHILIPPE ELLIS, BK.#49029: "Ladys and gentlemen, now in reference to this money I have something to bring to all your attention. I would like for all of you to listen to me closely. I was an Oiler on the Keystone State before the ship left here in Jersey, we went to Vietnam. We were told by the Patrolmen you the members that join the ship before July 31st you won't be entitled to severance pay in case they sell the ship. Ok, I stayed on there until December 15th. I had a steady job. They sold the ship in Taipei when we came back to the West Coast the Patrolman told us that we were not entitled to severance pay. Ok, I went to the other Patrolmen and they told me we were not entitled to this severance pay because the ship was sold after July 31st. Ok, nonetheless I was just a Firemen Watertender on the Gulf Pride and my roommate has an inside knowledge of what is going on. He came to me and said we applied for your severance pay because there are certain people who are getting it. So I came here to the Union Hall and went upstairs and the Lady that was in charge of the Pension and Welfare on the 9th floor, I forgot her name but any how she told me, she said, 'Mr. Ellis let me see your discharge.' I showed them to her. So they went and brought out a slip and another gentleman came and confirmed that my beef was legitimate that I was entitled to my severance pay. Now this was just one month ago. So she came to me and said never listen to any Patrolman, don't listen to anything the Patrolman might say about your severance because they no nothing absolutely nothing about pension and welfare. So they made me fill out the form. I in turn opened up my big mouth and I let my buddy in on a piece of pie. So he went up stairs the next day and he filed because me and the man were on the ship at the same time. They told him that he wasn't entitled to it. So in turn about four



days later they sent me a letter, I have a letter at home telling me I am not entitled to it. They just told me a few days before that I was. Where in the hell are they getting this. All of a sudden they tell me I am not entitled to it. What is going on?"

FLOOR: "Noise."

CHAIRMAN: "No cross fire please. Take the microphone if you are going to speak."

ALTON Z. THOMPSON, BK.#50931: "Good morning Sisters and Brothers, now a question on the retirement of the officers' pension plan. How are you going to vote for."

FLOOR: "Noise."

ALTON Z. THOMPSON, BK.#50831: "I can talk loud enough for all of you to hear. How are you going to vote, by hand or by division? I suggest you all vote by division. Not by hand. Mr. President, Mr. Rich and Mr. Mel Barisic and the members I think they should get retirement like we get the seamen not like they want. It should be voted by the membership."

CHAIRMAN RECOGNIZED ANOTHER SPEAKER.

FRANCISCO AYALA, BK.#55979: "I have been a meeting member since 1946 and since I have been in NMU I have been proud of it. Now there is a motion on the floor which has to be voted for. Now I came up here to ask for a motion to close discussion."

FLOOR: "Seconded."

POINT OF ORDER.

CHAIRMAN: "What is your point of order?"

WILLIAM DEAKENS, BK.#60711: "Mr. Chairman what I am against here, what I am totally against here is that there are a majority of members here who don't understand what's going on. I don't understand what it means the way it is spread in the Pilot. Now if you tell the members what it is all about instead of saying to them read it in the Pilot. This is a trick. We have been fooled too long and too often by our so called representatives just to keep on fooling, and fooling and fooling. Once be a fool, twice be a fool but not always a fool."

CHAIRMAN: "This is not a point of order. There has been vigorous discussion. I have gone around this membership."

FLOOR: "Noise."

CHAIRMAN: "Alright, brothers let me explain this, we have gone around the membership floor and I think everybody or every group has taken a shot at it."

FLOOR: "Noise."

BROTHER JUMPING UP AND DOWN.

CHAIRMAN: "Al, assume responsibility of the gavel.

You're out of order. Sit down. I know what he wants to accomplish here. Of course, you know he is fully out of order. Well anyway Brothers a lot of unkind and unpleasant things have been said. I think a lot of it need not have been said, I really do. It is obvious that some of this discussion was motivated politically. Some of the things that were said would have been better left unsaid, much better. The issue before us today is not political, it is not political at all. They want to make it political. I could retaliate in kind. I am not going to do that because, I believe that intraunion politics has its time and place during general elections and perhaps at the time of our convention but certainly not at every membership meeting. This is really only cheating you the membership. You the membership have decided who your Administration Leaders should be. So I think it is wrong for someone to try to project themselves politically here. They can't do a thing about it until



next election time.

There isn't any question that there is an officers' pension plan, none at all. There is no question because you the membership in 1953 were good enough, kind enough, and gracious enough to extend this to your officials."

FLOOR: "That is more than twenty years ago."

MEMBER QUESTIONED CHAIRS RIGHT TO DISCUSS QUESTION ON FLOOR.

CHAIRMAN: "I have the right because I turned the gavel to the Recording Secretary. I have a right to participate in debate because I pay my dues. I am not going to be disconcerted by hecklers. I am not going to be alarmed because these have been their tactics since I have been the Agent. I am going to explain something that I think needs explaining. It isn't a question that the Officers' Pension Plan is being voted on. This has been granted to your officials by you the rank and file. It has been reaffirmed and amended and in 1961 and 1964 it was amended to include staff members who work for us and Master-At-Arms alike who are not covered by any collective bargaining agreement. There is no question that we are a great trade union and we were leaders in setting up pensions for our people. From the day a man first works on an NMU ship he starts getting pension credits. But here we had twenty, or twenty-five loyal devoted people who are not covered by a Plan. So..."

FLOOR: "Noise."

CHAIRMAN: "They are not covered by collective bargaining, please."

FLOOR: "Noise."

CHAIRMAN: "They work for us and they were not covered by collective bargaining. They have given us many, many loyal years of service. And again, you the membership voted that they would be included under the umbrella of the Officer's Pension Plan. And this is so stated in our Constitution. In 1969 because of a political vendetta this was taken into court. It was challenged. I don't believe that anyone wanted to challenge everybody covered under that Plan. It was a political vendetta against one man. There was a lot of evidence presented. A lot of testimony and the case dragged on interminably. The judge in making a decision now mind you, did not say that these people who we had covered weren't entitled to a pension he didn't say that they didn't deserve a pension. He said and by definition alone that they could not be covered under the Officers' Plan because they were not officers. This was his interpretation, another Judge might have ruled differently. Dame justice is always depicted as a blindfolded woman with scales delicately balanced not knowing or seeing which way the scales are tipped. Perhaps this decision cannot be termed a miscarriage of justice. And, it is only in deference to that particular judge that I say this because it was his own brand of justice. But, of course, it was a grave injustice to people who have worked for us so long and so lovingly. But, these people who were knocked out of the Plan didn't panic. They didn't run away from us. They didn't fight us. They didn't take us into court and sue us. They did not condemn us because they realized that we were in good faith when we brought them into our Plan. That you the membership wanted them to have a Plan and solely because of definition, terminology were they stripped of benefits. It was suggested I know by outside interests, outside attorney's that these people sue the NMU. But one man said to me 'Andy, I couldn't do that because when I came to this Union it was only a job but I've grown to love NMU and love its membership and I couldn't in good conscience turn around and sue the union.' This they did not do. They said, 'I am sure that NMU will rectify the mistake that was made.' And this was done at the convention of 1972 when we established a Plan for the staff members not covered by collective bargaining. A Plan that could be merged with the Officers' Plan. That is really what it is all about. We are really only carrying out your mandate. This is what you directed us to do. And, now it is only to gain your approval of the way in which we have handled it. I am sure that no one here wanted to see a man like Carlton Connors knocked out of a pension. Carlton is one of the men who was affected. In 1962 and some of the brothers



Here, I know Sinclair Treiman was there when I lead the crew off the Argentina at Pier 97. This man walked the picket line for the IMU. This man shed his blood on the picket line for IMU. Shall we do him out of a pension? Shall this man be done out of a pension? I think not. I don't think you want him done out of a pension."

FLOOR: "No."

CHAIRMAN: "And there are other people who are not members but staff members who have given us long, loyal years of service. They have walked picket lines. They have taken their lumps for us. Shall we do away with their pension rights?"

FLOOR: "No."

CHAIRMAN: "Of course not."

Brothers you cannot draw an analogy between the staff members' and seamen's pension plans. You cannot draw an analogy between the two. I'll tell you exactly why you can't. Remember this that pension contributions made into this plan must take care of those who went out before you, those who laid the ground work for IMU. You must take care of those people. If you didn't do that there would not be any question that active seamen would be able to retire with \$650, \$750 a thousand dollar a month pension. But you have to take care of those who went before you. And it comes to mind now a man who went out in 1957 or 1958 on \$42.00 a month is now receiving \$191.50. Now this could have only been accomplished because the contributions made in your name cover the differential between \$42.00 and \$191.50. This has always been a trade union principle of IMU. You cannot draw a comparison between the two plans because they are structured entirely different.

But as President Wall said if the membership wants something like this, it is a negotiable item and can be voted on by you the membership. Getting back to the staff members pension, we have been able to include them under the protective umbrella of the Officers' Pension Plan to be called the Staff Pension Plan at no additional cost to you the membership because it is at the same rate of contribution being presently paid. Now this has to be economically sound. I don't see how anyone can oppose this because you said to give them a plan and this is so stated in our Constitution. If it was set up separate and apart from the officers plan it would be more expensive to operate. Therefore, they are being brought under the umbrella of our Plan. Now the Plan is fairly sound, fairly well funded and I expect and know that there will be a time when I can come to you in the future and say the rate of contribution is less than before. And, someday, sometime I expect either myself or whoever is here to be able to stand before you and say that no further contributions are necessary, the Plan is 100% funded. Now I don't know how anybody can be opposed to this sound economic principle. I know there will be those opposed. They have opposed and attacked virtually everything that I have presented to this membership. A fellow said to me one time, 'Andy doesn't the constant attacking dishearten you?' It would have but it didn't because this rank and file, this great membership has at all times rallied to my side and supported me. I love them for it and because of the splendid support you have shown me there exist between us a bond, ties of faith and confidence and I will never do anything to rupture them. No I will never do anything to sever that bond and God knows I will never let anybody or any group do anything to cut the ties of this bond."

FLOOR: "Applause."

CHAIRMAN: "Yes, this is a great membership, a membership with a great big heart. I have presented this proposed plan to you and showed you the economic feasibility of adopting it. But there is another side of the question and the answer to that side will not be found in facts or figures. No it won't be found there. That side of the question must be answered from within your heart. I feel that when this membership, this great IMU membership is presented with an issue that must be decided as to what is morally right and morally wrong that you will examine your conscience and vote with your heart."

FLOOR: "Applause."

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CHAIRMAN: "That's the kind of faith I have in you and I sincerely hope and pray that you will show the same faith in me that I have in you by voting for this proposed Staff Plan thus assuring that staff member, Master At-Large and Official alike will have a small measure of security when they retire and leave our great, good, and beloved BSA. Thank you."

FLOOR: "Applause."

Moved and seconded to close discussion."

M/S/C To close discussion.

CHAIRMAN: "We are ready to vote, all in favor of the Plan please signify by raising your right hand. Counters give your count to the Secretary."

All those opposed please raise your right hand."

CHAIRMAN ADDRESSING THOSE WHO SPOKE AGAINST THE PLAN.

CHAIRMAN: "Look around you and see the vote. Give the vote to the Secretary."

Those who have abstained from voting. Those of you who didn't vote, please raise your right hand. Bring in the count."

FLOOR: "Point of order."

CHAIRMAN: "Don't yell point of order because I am going to explain point of order to you."

FLOOR: "Point of order."

CHAIRMAN: "Every once and a while I have to hold a mini-course on Robert's Rules. Now everyone thinks because you say point of order or division, that it is in order. Of course, it is not in order. Let me explain this to you. There is no point of order in order when discussion is going on and if the question before the membership is not in violation of National, State, or City Codes or our Constitution. There is no point of order in order."

Please be quiet, here is the vote.

The vote is 131 for, 47 against, 13 abstained. Hold it, we are not finished with the meeting. Put the microphone back there.

There is no motion to adjourn. I am not adjourning this meeting. Don't stamp any cards now. There isn't any shipping. We are going to complete this meeting. The meeting is still in progress.

Now I have explained the point of order. Everybody sit down. I am not going to stop the meeting. Everybody sit down."

FLOOR: "Noise."

CHAIRMAN: "I am not going to recognize any motion to adjourn to satisfy someone's political motives. Now there is no point of order. I am not going to recognize you. You can stand at the microphone all day. Everybody sit down, there is still a meeting. Brothers, I am asking you to be quiet. He can jump up and yell, and yell all he wants. He and others didn't think they'd lose the vote. They didn't expect it to be won, but it was."

FLOOR: "Noise."

CHAIRMAN: "We've had a long meeting, it's nearly 12:30. There has been vigorous discussion. Is it moved to adjourn?"

FLOOR: "It is moved and seconded to adjourn."

M/S/C To adjourn. TIME: 12:25 P.M. ATTENDANCE 532

*[Signature]*  
MARK RICH, CHAIRMAN  
Book Number 14176

*[Signature]*  
AL BILBO, RECORDING SECY.  
Book Number 59221



MINUTES, MEMBERSHIP MEETING  
PANAMA: 11/22/74

REGULAR NMU MEMBERSHIP MEETING

PANAMA OFFICE

FRIDAY, 22 NOVEMBER 1974

Meeting was called to order at 1830 hours.

Proposed Agenda:

1. Nomination and election of meeting chairman.
2. Nomination and election of recording secretary.
3. Regional Director's report.
4. Staff member's report.
5. Unfinished business.
6. New business.
7. Good and Welfare.
8. Adjournment.

MSC to accept agenda as read.

Nomination and Election of Meeting Chairman:

Brother Malcolm volunteered.

MSC to accept Brother Malcolm by acclamation.

Nomination and Election of Recording Secretary:

Brother Washington was elected by acclamation.

MSC to accept Brother Washington.

Regional Director's Report:

We are presently in the process of forcing the PCC to mutually work out a set of work rules similar as those we have worked out for the canal seamen. I am working with Labor Liaison



REGULAR NMU MEMBERSHIP MEETING  
Page 2  
22 November 1974

Officer, Mr. J. C. Dyer, of the Marine Bureau to bring uniformity in the Locks Division. We requested also that henceforth to have all meetings with officials of the Marine Bureau recorded.

The Omaha was ordered to reduce their premium from \$ 12.25 for self and family to \$ 6.99 and to \$ 2.99 for self only. If you recall that your President instructed our Washington office to use all their resources to protest the 91% increase imposed by Omaha in 1973, and that we understand also that a team of auditors are being sent from the office of the Secretary of the Army to audit their books. We can consider this matter a great victory.

On our Housing Program in Cativa, a letter from Paredes, the builder, was sent to the Regional Director. MSC to accept the Regional Director's report.

Staff member, Gaskin, reported on the meeting with CAO officials, who are here to investigate various complaints submitted to the Panama Canal Sub-Committee, headed by Congressman Leggett.

Unfinished Business:

1. Deckhand Classification.
2. Equal cost-of-living for lower grade employees.
3. The problem of toilet and paper towels in the washroom for our stevedores was discussed.



4. Retirement for NAF employees

MSC to accept Brother Gaskin's report.

New Business:

1. Brother on the floor requested that we should look into the sanitation situation in Grounds Maintenance, Balboa.

2. Pest Controllers: Since the payment of APA was abolished through the application of the CFWS Brother requested that we ask for one additional grade so as to compensate for dirty work.

Resolution of the National Maritime Union Staff Pension Plan was introduced:

Pursuant to Article III, Section C, Subsection 1 of the Agreement and Declaration of Trust establishing the National Maritime Union Officers Pension Fund, the Board of Trustees hereby amend and revise the National Maritime Union Officers Pension Plan which was effective as of February 16, 1953 (and thereafter amended from time to time) to delete said Plan in its entirety and to provide for a new Plan effective January 1, 1974, in order to cover officials and employees not covered by collective bargaining agreement with any other union or paying into any other Pension Fund. Name of this plan shall be National Maritime Union Staff Pension Plan.

Discussion was called for which there was pro and con.

MSC to accept the Resolution as read; it was passed unanimously. 192 no abstentions and none against.

REGULAR NMU MEMBERSHIP MEETING

Page 4

22 November 1974

Good and Welfare. Brothers requested for more leaflets on the field.

Meeting was adjourned at 2015 hours.

*Wilfred Washington*

Wilfred Washington  
Recording Secretary  
128014  
Bk. No. M1449



MINUTES, MEMBERSHIP MEETING  
CRISTOBAL: 11/21/74

REGULAR NMU MEMBERSHIP MEETING

CRISTOBAL OFFICE

THURSDAY, 21 NOVEMBER 1974

Meeting was called to order at 1810 hours.

Proposed Agenda:

1. Nomination and election of meeting chairman.
2. Nomination and election of recording secretary.
3. Regional Director's report.
4. Staff member's report.
5. Unfinished business.
6. New business.
7. Good and Welfare.
8. Adjournment.

MSC to accept agenda as read.

Nomination and Election of Meeting Chairman:

Brother Walter Hyde was unanimously elected.

MSC to accept Brother Hyde.

Nomination and Election of Recording Secretary:

Brother Winston Peart was elected unanimously.

MSC to accept Brother Peart.

REGULAR NMU MEMBERSHIP MEETING  
Page 2  
21 November 1974

Regional Director's Report:

We are processing the issue to have the Locks Division comply with their previous agreement to seize general maintenance work by linehandlers and boatmen between the hours of 12:00 p.m. to 8:00 a.m. We are also in the process of working out uniform work rules for that Division.

Omaha was ordered to reduce their premium from \$ 12.25 to \$ 6.99. This reduction was through the effort of the NMU, which took Omaha on single-handed.

A letter from Engineer Paredes was read explaining the status of our housing project.

We are also having a discussion with the Company to open the door for helpers so that they too can aspire for craftman position. This was our aspiration from the day we came to Panama. If you will recall, sometime ago, your President, Shannon Wall, made remarks in the local press calling the Governor's attention to train those employees that show interest.

There is new light to the canal seamen classification appeal, which as you all know, we shall not rest until justice is done.

We received word from our Washington office that the leave parity



REGULAR NMU MEMBERSHIP MEETING

Page 3

21 November 1974

issue will be solved and most likely will go under the DOD system.

MSC to accept the Regional Director's report.

Staff member Gaskin reported on the open house program  
Civil Affairs Bureau.

Marine Bureau job description appeal for launch operator.

Non-appropriated Funds:

Retirement for non-appropriated fund employees.

MSC to accept Brother Gaskin's report.

Unfinished Business:

Brother on the floor requested the status of our project.  
This was explained by Regional Director.

Inquiry was made about canal seaman classification and better type of box lunches. It was explained by Brother Lioeanjie that the above was already taken care of, which should have been noticed by the members.

MSC to go into next order of business.

New Business:

Brother on the floor, a delegate, requested that more delegate meetings should be held in Cristobal. Brother Lioeanjie explained that since there are far more delegates on the Pacific Sector and that for transportation purposes, most of the delegate meetings are held in Panama.

REGULAR NMU MEMBERSHIP MEETING

Page 4

21 November 1974

Brother on the floor requested for more frequent on-the-job visits and meetings, and more leaflets on the field.

Resolution of the National Maritime Union Staff Pension Plan was introduced:

Pursuant to Article III, Section C, Subsection 1 of the Agreement and Declaration of Trust establishing the National Maritime Union Officers Pension Fund, the Board of Trustees hereby amend and revise the National Maritime Union Officers Pension Plan which was effective as of February 16, 1953 (and thereafter amended from time to time) to delete said Plan in its entirety and to provide for a new Plan effective January 1, 1974, in order to cover officials and employees not covered by collective bargaining agreement with any other union or paying into any other Pension Fund. Name of this plan shall be National Maritime Union Staff Pension Plan.

Discussion was called for which there was pro and con.

MSC to accept the Resolution as read; it was passed unanimously. 83 for no abstentions and none against.

MSC to go into the next order business.

Good and Welfare.



REGULAR NMU MEMBERSHIP MEETING

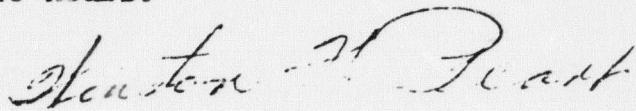
Page 5

21 November 1974

Discussion on the floor by various delegates, especially  
on the maintenance of our office.

MSC to go to next order of business.

Meeting was adjourned at 2020 hours.

A handwritten signature in cursive script, appearing to read "Winston F. Peart".

Winston F. Peart  
1542052

MINUTES, MEMBERSHIP MEETING  
SAN JUAN: 11/25/74

REGULAR MEMBERSHIP MEETING HELD AT THE PORT OF SAN JUAN:

NMU  
MONDAY

November 25, 1974

Meeting called to order by Agent E. Quinones at 10:00 A. M.

PROPOSED AGENDA

1. Nomination and Election of Chairman
2. Nomination and Election of Recording Secretary
3. Reading of Previous Meeting Minutes
4. Agent's Report including Financial Report
5. Communications
6. Old Business
7. New Business
8. Election of Trial Committee
9. Good and Welfare
10. Adjournment

MSC to accept the Agenda as read:

1. Nomination and Election of Chairman

E. Quinones (a)

Brother Quinones was nominated and elected by acclamation.  
MSC to accept Brother Quinones as Chairman.

2. Nomination and Election of Recording Secretary

Brother Miguel Herrero was nominated and elected by acclamation.  
MSC to accept Brother Herrero by acclamation.

3. Reading of Previous Meeting Minutes.

Previous meeting minutes were read to the membership.

4. Agent's Report including Financial Report:

Financial Report from October 30th through November 25th, 1974

Total Income.....	\$ 2,165.00
Total Expenses.....	15.72
Total Bank Deposit.....	<u>\$ 2,149.28</u>

Agent's Report:

Brother Quinones addressed the membership by informing them the importance of advancing themselves so that they could be prepare for the future shipping wise, but most important of all, he explained the future of our Union, for all members should take active interest in all Union affairs such as the delegates on board the ships to be sure that meeting were held every month and to keep the Union inform of everything that was going on aboard the ships. That they should not sit back and wait for the Council to solve all the problems and do all the jobs concerning the benefits of all members. There were many years of strong fights and they are getting tire and old and that means that the young people must be ready to take over and continue the fight.

Brother Quinones spoke about the successful council meeting he attended in San Francisco and the way every meeting was conducted, that it have been a success under the direction of our President Shannon Wall.

He also talked about the new proposals submitted to the Company for the next negotiations such as USPHS on private Hospital benefits for themselves, Hospital benefits while in patient and many other benefits. The Agent also distributed to all members present a copy of the November Pilot and read carefully the proposal of the NMU staff Pension Plan.



5. Communications

All communications were read to the membership. M/S/C.

6. Old Business

M/S/C to go to next order of business.

7. New Business

Brother Quinones read to the membership both in spanish and English the new proposals of the new NMU Staff Pension Plan.

Brother Roberto Pellot, Book # 60712 made a motion to accept the proposal as read.

Question called for:

Discussion on the proposed Plan. Brother Felix G. Rivera, Book # 54321 brought up the question of whether the members would have to contribute to the Plan.

Brother Quinones answered that the Plan is funded from the Union's General Fund and that no contributions or additional dues would be required from the membership. They also wanted to know how much Pension the staff was going to get. Quinones answered that it depended of how many years or time employed by the Union. After pro and con discussion M/S/C by brother Fabian Torres, Book # 27145 to close discussion.

Brother Quinones called for a count hand vote on the proposed NMU Staff Pension Plan. Voting was as follows:

In Favor.....	38
Abstained.....	1
Against.....	None

The proposed Pension Plan was carry. M/S/C to go to next order of business.

8. Election of Trial Committee

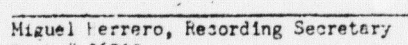
M/S/C to go to next order of business.

9. Adjournment

M/S/C to adjourn the meeting. Meeting adjourned at 11:30 A.M.

Attendance: 39 members

  
E. Quinones, Chairman

  
Miguel Ferrero, Recording Secretary  
Book # 36015

COURT OF APPEALS  
SECOND CIRCUIT

Index No.

ANDY KINKO, individually and on behalf of the members  
of the National Maritime Union of America,  
Plaintiff-Appellant,

- against -

SHANNON J. WALL, as President of the National  
Maritime Union of America and individually, JOSEPH  
CURAN, as Past President of the National Maritime  
Union of America, Etc.

Defendants-Appellees.

Affidavit of Service by Mail

STATE OF NEW YORK, COUNTY OF NEW YORK ss.:

I, Robert L. Martinez, being duly sworn, depose and say that deponent is not a party to the  
action, is over 18 years of age and resides at 234 East 33rd Street; New York, New York; 10016  
That on the 18th day of April, 1977, the deponent served the annexed

*[Signature]*

upon Sandy Dinko

attorney(s) for

in this action, at 109-08 Firwood Place  
Hollis, N. Y.

the address designated by said attorney(s) for that  
purpose by depositing a true copy of same, enclosed in a postpaid properly addressed wrapper in a  
Post Office Official Depository under the exclusive care and custody of the United States Post Office  
Department, within the State of New York.

Sworn to before me, this 18th  
day of April, 1977.

*[Signature]*

Robert L. Martinez

ROBERT T. BRIN  
NOTARY PUBLIC, State of New York  
No. 31-0418900  
Qualified in New York County  
Commission Expires March 30, 1978



COURT OF APPEALS  
SECOND CIRCUIT

ANDY DINKO, indicudually and on behalf of the members  
of the National Maritime Union of America,  
Plaintiff-Appellant,

Index No.

- against -

Affidavit of Personal Service

SHANNON J. WALL, as President of the National Mari-  
time Union of America and individually, JOSEPH CURRAN  
AS Past President of the National Maritime Union  
of America, etc.

Defendants-Appellees.

STATE OF NEW YORK, COUNTY OF

ss.:

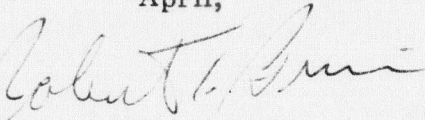
I, Victor Ortega, being duly sworn, depose and say that deponent is not a party to the action,  
is over 18 years of age and resides at 1715 Lacombe Avenue; Bronx, New York

That on the 18th day of April, 19 77 at 1. 30 Broadd Street; N.Y., N. H.  
2. 1 Chase Manhattan Plaza; N.Y., N. Y.  
deponent served the annexed *Appendix* upon

1. Zold Brandwein Meyers & A<sub>1</sub> tman
2. Wilkie Farr & Gallagher

the in this action by delivering a true copy thereof to said individual  
personally. Deponent knew the person so served to be the person mentioned and described in said  
papers as the herein,

Sworn to before me, this 18th  
day of April, 19 77  
April,



*Victor Ortega*  
Victor Ortega

ROBERT T. BRIN  
NOTARY PUBLIC, State of New York  
No. 31-0410950  
Qualified in New York County  
Commission Expires March 30, 1977